

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

BRYCE FRANKLIN,

Petitioner,

v.

Civ. No. 21-304 WJ/GJF

DWAYNE SANTISTEVAN, *Warden*,
ATTORNEY GENERAL FOR
THE STATE OF NEW MEXICO,

Respondents.

ORDER TO ANSWER

THIS MATTER is before the Court on Petitioner Bryce Franklin's 28 U.S.C. § 2254 habeas corpus petition [ECF 1] (Petition). Petitioner alleges prison officials revoked privileges without due process after they discovered an envelope containing drugs. Having reviewed the Petition, the Court determines it should be construed under 28 U.S.C. § 2241. The Petition attacks "the execution of a sentence," including "prisoner disciplinary matters." *McIntosh v. U.S. Parole Comm'n*, 115 F.3d 809, 811 (10th Cir. 1997). Respondents must file an answer, as the internal disciplinary records are necessary to resolve the Petition.¹

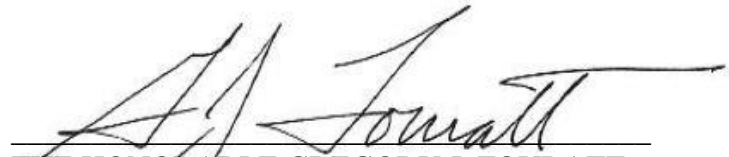
Accordingly, it is **ORDERED** that the Clerk forward copies of this Order and the Petition [ECF 1] to Respondent Attorney General of the State of New Mexico (AG).

It is **FURTHER ORDERED** that the AG answer the petition, which will be construed under 28 U.S.C. § 2241, within 30 days of entry of this Order. The answer must advise, but is not limited to, whether the Petitioner has exhausted his state court remedies as to the issues raised in

¹ Petitioner has filed at least six other habeas proceedings in this Court. *See* 18-cv-1156 JB-JHR; 18-cv-413 JCH-KRS; 18-cv-1239 MV-JHR; 19-cv-450 JB-KRS; 20-cv-576 KG-JFR; and 21-cv-303 RB-KK. Those proceedings challenge different prison infractions and do not implicate the current infraction, No. GC-19-05-120 (Dealing in Dangerous Drugs). Accordingly, the instant Petition is not second or successive.

the federal petition. The answer must attach copies of all relevant state court records and all internal prison records related to the challenged disciplinary proceeding.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE